IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

WRIT PETITION NO.4837 OF 2007

Suhel Abdullah Dandu : Petitioner

V/s.

State of Maharashtra & Ors. : Respondents

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Mr.R.K.Mendadkar for the petitioner.

Mr.R.D.Rane, Government Pleader for respondent nos.1 to 3.

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CORAM : F.I.REBELLO & R.M.SAVANT,JJ.

DATE : JUNE 26, 2007.

P.C.

1. Rule. Heard forthwith.

2. The petitioner challenges the order dated 28.3.2007 whereby the petitioner's claim as belonging to Koya, Scheduled Tribe has been negatived. In the first instance, this Court in Writ Petition no.43 of 1997 has upheld the tribe claim of the petitioner's father as belonging to Koya, Scheduled Tribe. Once that is the case, the Committee ought to have accepted the same being blood-relation, unless there was documentary evidence on record which would negate the said tribe validity. It is unfortunate that the Committee, a quasi-judicial body,

subject to the superintendence and jurisdiction of this Court has proceeded to go into the merits of the order of this Court. Once this Court passes an order, that order is binding on the Committee, the only remedy for the State, if it is aggrieved by that order, would be to prefer a review and/or any other remedy which is available in law. Also, if during the course of inquiry, documentary evidence comes on record which would prima facie have the effect of negativing the finding in favour of the blood-relation, that could have been considered. In the instant case, the order proceeds on the footing as if the claim of the petitioner must be rejected.

3. The second grievance of the petitioner is that the petitioner produced three documents. The first is the School Leaving Certificate of the elder brother of the grandfather of the petitioner where in the school admission record dated 1.7.1932, the tribe is shown as "Koya". Similarly, that of the grandfather of the petitioner, in the school admission record dated 15.4.1936 as also that of the sister of the grandfather where in the school admission record dated 10.8.1943, the tribe of both these persons is shown as "Koya". From the order of the Committee, we find that insofar as the petitioner’s grandfather is concerned, the Committee has purported to reject the same, based on the finding of the Inquiry

Officer that the entry was in different handwriting and, therefore, doubtful. The other documents relied upon have not been referred to. It would have been appreciated if those documents which are important and which would have high probative value had been considered. The contention of the petitioner is that once these documents were made available to the Committee, the Committee should have got the documents verified from the Inquiry Officer. That exercise has not been done. In the light of that, the following order:-

O R D E R

(i) The order dated 28.3.2007 is quashed and set aside. The matter is remanded back to the Committee to reconsider the same afresh, bearing in mind that this Court has accepted the tribe claim of the petitioner's father as belonging to Koya Scheduled Tribe. Once a blood-relation is given the Certificate, unless there are strong reasons to the contrary, normally, a Certificate is also issued to his children. This exercise be completed within a period of three months from today.

(ii) Rule made absolute, accordingly. There shall be no order as to costs.

(iii) In the meantime, the respondents are directed to permit the petitioner to prosecute his studies and also appear for examination. That will be subject to the final order which may be passed by the Committee.

F.I. REBELLO, J.

R.M. SAVANT, J.